EXPLANATION OF

32

فروع الفقه

Ibn al-Mibrad

Shaykh Ahmad Musā Jibrīl

May Allāh (سبحانه وتعالى) ease the affairs of the Shaykh, preserve him, love him, and safeguard him from all harm. May He (سبحانه وتعالى) keep him sincere, and continue to shower his life and Da'wah with His blessings, and allow the Muslims to benefit from his da'wah until the Day of Judgement. May Allāh make all his efforts weigh heavy on his scales, and make it an immense Sadaqah Jāriyah for him, his parents, and his family. May Allāh facilitate the completion of this Sharh and shower him with His aid always and forever.

SH_AHMAD_JIBRIL

SH_AHMAD_JIBRIL

T.ME/AHMAD_MUSA_JIBRIL

SHAYKH AHMAD MUSĀ JIBRĪL

SHAYKH AHMAD MUSĀ JIBRĪL

بسم الله الرحمن الرحيم

الحمد لله رب العالمين، والعاقبة للمتقين، والصلاة والسلام على عبده ورسوله وخليله وصفوته من خلقه، نبينا وإمامنا وسيدنا محمد، وعلى آله واصحابه ومن سلك سبيله واهتدى بهداه الى يوم الدين، اما بعد:

Recap

We're on the nullifiers of Wudū' and the author رحمه الله تعالى said,

والنواقض في الطهارة الصغرى ثمانية

There are eight nullifiers of Wudū'.

1. الخارج من السبيلين, anything exiting from the two private parts.
2. والفاحش من غيرهما, what exits from other than the two private parts that's repulsive.
3. The third one is وزوال العقل بغير نوم يسير جالسا أو قائما, the matters pertaining to sleeping.
4. Then, the fourth and fifth are ومس الفرج والمرأة لشهوة, touching the private parts,
5. and a woman with desire (والمرأة لشهوة).
6. The sixth one is وأكل لحم الإبل, eating the meat of the camel.

7. The seventh one is والردة. والردة is apostasy.
8. The eighth nullifier of Wudū' is Wudū' from washing the deceased. And we said that's from Mufradāt Al-Madhhab Al-Hanbali, and I explained what that means. And the summary is that it's not a nullifier because there's no proof — no clear, solid proof — to indicate it's a nullifier.

Then we took an additional nullifier which is

9. القهقهة في الصلاة, laughing in Salāh. It's among Mufradāt Al-Madhhab Al-Hanafi, and like the previous nullifier, the summary is it's not a nullifier because of the lack of proof — lack of clear, authentic proof — to indicate it's a nullifier.

Wudū' from washing the deceased is among Mufradāt Al-Madhhab Al-Hanbali, just like Wudū' from eating the meat of a camel is. Laughing in Salāh is among Mufradāt Al-Madhhab Al-Hanafi.

Nullifier #10 – الوضوء بالشك

The tenth nullifier that will start on right now inshā'Allāh is among Mufradāt Al-Madhhab Al-Māliki: الوضوء بالشك, Wudū' when in doubt. You need to understand what we mean by 'doubt' in order for you to understand this Mas'alah. Someone positively made Wudū', but he or she doubts whether they nullified that Wudū'. You ask the

individual (or you ask yourself), "Would you be willing to give an oath that you made Wudū'?" Without a doubt, "Yeah, I'll give it. Yeah, I did, I'm 100% sure I made Wudū', there's no doubt about it." They're waiting for Salāh or they're in Salāh. The follow up question is, "Would you give an oath that you nullified the Wudū'?" And then the answer is, for this Mas'alah, "I'm in doubt. I'm in doubt whether I nullified my Wudū' or not, I cannot give an oath that I nullified my Wudū'." If he says, "I give an oath, I nullified Wudū'", there's no issue, you have to go make Wudū'. But he gave an oath that he made Wudū', but he's doubtful whether he nullified it, that's the doubt that we're talking about here, that's the Mas'alah here. Do you need to make Wudū' when you're in that type of doubt?

- The first opinion is that one's Wudū' remains intact whether he's in Salāh or outside of Salāh. And this is the opinion of the majority of the Ulamā' and it's one of two opinions within the Madhhab of the Mālikiyyah, the opinion that was related by Nāfi'.

  Their proof for this is a very important principle of Fiqh, or a foundation of Fiqh — one of the foundations of Fiqh. The principle is الاصل بقاء ما كان على ما كان, "Matters remain as they originally were", or worded differently, maybe even more clear, اليقين لا يزول بالشك, "Certainty is not removed by doubt." That's one of the Fiqh principles. Ulamā' gave Fiqh principles a lot of time and attention, because they're very important to a student of knowledge, let alone an 'Ālim or Faqīh. When you know them, you can deduce from them rulings on Fiqh Masā'il. You can take rulings from those principles and apply them to many secondary Fiqh Masā'il.

And the best way to describe them is what my father was telling me a few days ago. We were having a discussion that led to Fiqh Masā'il. Nothing pertaining to this — something totally different — but a general, casual conversation, and it led to him speaking about principles of Fiqh. And he said what would be probably the best way to explain it so you can understand what Fiqh principles are. He said the Shaykh or a student of knowledge is like a chef in this matter. The Fiqh principles are like a recipe, it's like a recipe for the meal. The chef has the recipe. Applying the Fiqh principle requires knowledge and talent like applying the recipe to cooking. Knowing these Fiqh principles will eliminate the need to memorize rulings on many Fiqh Masā'il, and it'll get you to quickly remember the rulings on many Fiqh Masā'il. Why? Because many Masā'il fall under these principles. And rather than memorize countless, endless Masā'il of Fiqh, you can quickly remember them and their rulings by applying these Fiqh principles to them. Knowing these principles gives you a strong Fiqh foundation and a Faqīh who knows them usually turns out to be creative and brilliant in his Fiqh. In a way, in a way, they're very similar to the benefit of Mutūn. It stabilizes the Fiqh Masā'il in one's mind, and at the same time, it broadens the scope of the Faqīh's understanding. It magnifies and broadens the Fiqh status of a Faqīh. When one knows them, it keeps the Faqīh's Manhaj in Fiqh and in Fatāwā clear and consistent. When you gather and analyze Fatāwā of some Juhāl who think they're Fuqahā' or Talabat 'Ilm, the ones who haven't properly studied, you find a lot of inconsistencies when comparing the answers over time. And that's due to many reasons. Among the ways to eliminate that type of inconsistency is to master Fiqh principles. Another very important benefit of these Fiqh principles is they're helpful in deriving rulings that pertain to current events and Masā'il that

constantly arise. The Ulamā' gave them a lot of attention, some devoted some books to them like Al-Ashbah wan-Nadhā'ir and Ta'sees An-Nadhr.

The Fiqh principle that we're studying here today is اليقين لا يزول بالشك. Certainty is not removed by doubt. This principle, this particular principle, is considered by some Ulamā' to be among the five main, top Fiqh principles. Why? Because it applies to many detailed Masā'il of Fiqh. Many rulings of Fiqh Masā'il can be derived from this principle, not just in this matter, [meaning] like Wudū' nullifiers. Many Masā'il can be derived from this principle in the 'Ibādah section as a whole. Like for example, the matter, the popular matter, of doubting one's Rak'āt. Or for example, someone went to a store, he doubts if Najāsah was on the clothes he just bought. Are they Tāhir or must you wash them? Brand new clothes you just got from the store. Applying this principle, they're Tāhir because certainty of Tahārah doesn't get negated by doubts that they may be Najis. This principle applies to other Masā'il in the section of Mu'amalāt, in the section of Talāq (like divorce), in the section of freeing slaves, in Shahādāt, in Jinayāt, and other sections of Fiqh. Let me give you another example. Someone owes another person money. By Yaqīn, he borrowed a thousand dollars. No doubt about that, he'll give an oath about it. The Yaqīn is he borrowed that money, the Yaqīn is that he owes that money. But he doubts whether he paid or not. The debt doesn't get negated by the doubts that he has of paying the money back. So he'll say, "WAllāhi, I borrowed from him money." Can you say, WAllāhi, you paid him back? "No, I doubt. It might be, might not."

As-Suyūti said this principle applies in all sections of Fiqh and applies to nearly three-fourths of Fiqhi Masā'il, if not more. Where did the Ulamā' come up with this Fiqh principle and other Fiqh principles? They deduced them from proofs. Like for example, this principle, it's backed by the verse,

وَمَا يَتَّبِعُ أَكْثَرُهُمْ إِلَّا ظَنًّا ۚ إِنَّ ٱلظَّنَّ لَا يُغْنِى مِنَ ٱلْحَقِّ شَيْـًٔا

"Most follow assumptions, and assumptions don't replace the truth."

إِن يَتَّبِعُونَ إِلَّا ٱلظَّنَّ ۖ وَإِنَّ ٱلظَّنَّ لَا يُغْنِى مِنَ ٱلْحَقِّ شَيْـًٔا

"They follow assumptions. Guesses or assumptions don't substitute the truth." Proof for it is in the Hadīth that we took many times, Hadīth of 'Abbād Ibn Tamīm and his uncle, or similar to it, Hadīth Abu Hurayrah رضي الله عنهم,

لاَ يَنْفَتِلْ أَوْ لاَ يَنْصَرِفْ حَتَّى يَسْمَعَ صَوْتًا أَوْ يَجِدَ رِيحًا

"One should cease or end his Salāh (if he doubts whether his Wudū' broke or not) unless he hears a sound or smells something." So it's backed by the Qur'ān, by the Sunnah, and by the Ijmā'. The Fuqahā' and Ulamā' of Usūl agree on this principle. Al-Qarrāfi said that this principle is agreed upon by Ijmā', everything in Shak — Shak is doubt — everything in doubt is considered as if it doesn't exist and as if it's not there. Yaqīn (certainty) in Hadath — one has Yaqīn that he's

invalidated his Wudū', Yaqīn in Hadath that one negated his Wudū' — means it's a Hadath, it's negated. Yaqīn (certainty) one is on Wudū' means he's on Wudū'. Doubts don't affect it. What's the level or certainty that we're talking about here? Can you make an oath? "Yeah, I can make an oath I'm on Wudū'." Can you make an oath you negated the Wudū'? "No, I can't." You're on Wudū'. That's the first opinion. If you're on Yaqīn you made Wudū', but you're doubting whether you broke the Wudū', you are on Wudū'.

- The second opinion is the opinion of the Mālikiyyah. It's one of two opinions, because they have an opinion that we mentioned was related by Nāfi' with the first opinion. They said that if one doubts his Wudū' is nullified, that means it's nullified. He's not on Wudū'. Some Mālikiyyah branched off from that, within this opinion, and they said only if it's outside of Salāh. Meaning if he doubts whether he nullified his Wudū' or not *outside* of Salāh, then he has to make Wudū'. *In* Salāh, it doesn't have an effect and it doesn't nullify the Wudū'. Outside of Salāh it does, not inside of Salāh. So like this opinion has like an A and B to it. We said it's among Mufradāt Al-Madhhab Al-Māliki.

  What's the rationale? They said Tahārah, Wudū', purification, is a condition for Salāh — which no one can disagree with. Doubts in such conditions are effective and they nullify the Tahārah. They said doubts are effective in what's a condition to performing an obligation towards Allāh سبحانه وتعالى. 'Ibādah is something you owe Allāh سبحانه وتعالى, that's what they're saying. Ibādah is something you owe Allāh. It's your duty to perform all the conditions and fulfill them, and among them is Tahārah, and doubts affect those conditions. They're saying Salāh is a

Wājib. You owe it as an obligation towards Allāh. A right upon you to give to Allāh سبحانه وتعالى and you have to give it with full Yaqīn. The Salāh must be performed in full Yaqīn. If you have doubts in its conditions, like Tahārah, you haven't performed your obligation towards Allāh سبحانه وتعالى in full Yaqīn. Like the example I mentioned earlier similar to it. You owe someone money by Yaqīn. You give an oath on it, but you doubt one day whether you paid him or not. Will you give an oath you paid? "No I can't." You need to pay him because doubt that you paid doesn't overcome the Yaqīn of the debt. Similar to it, they said, like Salāh. Doubts in Tahārah for Salāh are effective, and they said unlike doubts in other matters like Talāq or freeing slaves or Dhihār or other matters pertaining to nursing, they agree with the rest of the Ulamā' that doubts are not effective. They go along with the rest of the Ulamā' pertaining to those other matters. Also they said said Tahārah is easy, Wudū' is easy, and the nullifiers are many, so it's safer to make Wudū'.

Now the reason why some Mālikiyyah under this opinion distinguish between Tahārah inside Salāh and outside of Salāh (that doubts in Salāh will not affect it but doubts outside of Salāh are effective) is because they said the Hadīth that I mentioned earlier, Hadīth 'Abbād Ibn Tamīm, and similar to it is Hadīth Abu Hurayrah. They said the Hadīth explicitly says one should not cease his Salāh if he doubts his Wudū' broke unless he hears a sound or smells something. They're saying the Hadīth specifically says *in* Salāh, and correctly the Hadīth does say in Salāh. So they're saying the Hadīth says in Salāh, it's in the context of someone in Salāh, so if he has a doubt in Salāh, it doesn't nullify the Wudū', unlike if it's outside of Salāh. Ibn Hajr correctly responded to this and he said, "What's a

nullifier in Salāh is a nullifier outside of Salāh, just like the rest of the nullifiers." We don't have nullifiers in Salāh and other nullifiers outside of Salāh.

A second response that can be added is that "in Salāh" was specified in the Hadīth because that's the majority of when the whispers of the Shaytān occur. But the rule applies for doubts in Salāh *and* outside of Salāh.

The Rājih is clearly the Jumhūr. They're much stronger than the Mālikiyyah in this because the principle that we mentioned, الاصل بقاء ما كان على ما كان. Keep that principle in mind. مَن تيقَّن الطَّهارة وشكَّ في الحدث فهو متطهر. What that means is — and that's the summary of everything we said today — whoever is on Yaqīn (certainty) in Tahārah, that he's on Tahārah, but doubts whether he negated his Tahārah, he is on Tahārah. ومَن تيقَّن الحدثَ وشكَّ في الطَّهارة فهو مُحدِث. Whoever is not on Tahārah and doubts whether he made Tahārah, he is not on Tahārah.

There are some follow-up notes pertaining to this nullifier that we'll discuss inshā'Allāh in the next class. Not only will you leave today with a detailed analysis of this Fiqh Mas'alah, but you'll leave learning a very, very important principle of Fiqh and how it's used, and it'll help you in countless Fiqhi Masā'il that may arise. والله أعلم.

وصلى الله على سيدنا محمد وعلى آله وصحبه وسلم